

Senate Bill No. 1101

CHAPTER 733

An act to amend Section 6366 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 6, 1997. Filed
with Secretary of State October 7, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1101, Alpert. Sales and use taxes: exemptions: ground control station.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property and provides various exemptions from the taxes imposed by that law. That law provides an exemption for aircraft used as a common carrier, as specified, or sold to any person who is not a resident of this state and who will not use the aircraft in this state.

This bill would also provide an exemption for a "ground control station," as defined, sold to any foreign government or nonresident for use outside the state.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

The people of the State of California do enact as follows:

SECTION 1. Section 6366 of the Revenue and Taxation Code is amended to read:

6366. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, the following:

(1) Aircraft sold to any person using the aircraft as a common carrier of persons or property under authority of the laws of this state, of the United States, or of any foreign government, or sold to any

foreign government for use by that government outside of this state, or sold to any person who is not a resident of this state and who will not use that aircraft in this state otherwise than in the removal of the aircraft from this state.

(2) (A) A ground control station sold to any foreign government for use by that government outside of this state or sold to any person who is not a resident of this state and who will not use that ground control station in this state otherwise than in the removal of the ground control station from this state.

(B) A “ground control station” means a portable facility used to operate aircraft in the air without a pilot on board. The term includes controls, video equipment, computers, generators, and communications equipment, sold as an integral part of the station, and antennas used to control the aircraft. The term does not include trucks, tractor-trailers, or other devices solely used to transport the station.

(3) Tangible personal property that is purchased on or after October 1, 1996, and becomes a component part of any aircraft described in paragraph (1), as a result of the maintenance, repair, overhaul, or improvement of that aircraft in compliance with Federal Aviation Administration requirements, and any charges made for labor and services rendered with respect to that maintenance, repair, overhaul, or improvement.

(b) With respect to aircraft sold on or after January 1, 1997, it shall be presumed that a person is not engaged in business as a common carrier if the person’s yearly gross receipts from the use of the aircraft as a common carrier do not exceed 20 percent of the purchase cost of the aircraft to him or her, or fifty thousand dollars (\$50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the person is engaged in business as a common carrier.

In no event shall “gross receipts” include compensation by the person or related parties for use of the aircraft as a common carrier.

(c) With respect to aircraft leased, or sold for the purpose of leasing, on or after January 1, 1997, it shall be presumed that the aircraft is not regularly used in the business of transporting for hire property or persons if the lessor’s yearly gross receipts from the lease of that aircraft to persons using the aircraft as common carriers of property or persons do not exceed 20 percent of the cost of the aircraft to the lessor, or fifty thousand dollars (\$50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the aircraft is regularly used as a common carrier of property or persons.

In no event shall “gross receipts” include compensation by the lessor or related parties for use of the aircraft as a common carrier.

SEC. 2. It is the intent of the Legislature that the State Board of Equalization administer the exemption for the sale and use of ground

control stations provided by Section 1 of this act consistent with existing regulations administering the exemption for the sale and use of aircraft sold to a foreign government for use by that government outside of this state or sold to a person who is not a resident of this state and who will not use that aircraft in this state otherwise than in the removal of the aircraft from this state.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

